



City of Seattle

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Gregory Nickles, Mayor  
**Department of Planning and Development**  
Diane Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application:** 2108344

**Applicant Name:** Christopher Day for Al Kuresman

**Address of Proposal:** 2812 East Spring Street

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future construction of one, two unit townhouse structure and one, three unit townhouse structure for a total of five units. Parking for five vehicles to be provided in basement garages. The property is zoned NC2/R-40, with a 40 foot height limit. The property is located near the intersection of 29<sup>th</sup> Avenue and East Spring Street, approximately 100 feet east of Martin Luther King Jr Way.

The following approvals are required:

- Design Review pursuant to Chapter 23.41 Seattle Municipal Code (SMC)
- Administrative Conditional Use Permit for a Single Purpose Residential Use in an NC2-40 zone (SMC 23.47.004E)
- SEPA - Environmental Determination - Chapter 25.05 SMC

**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

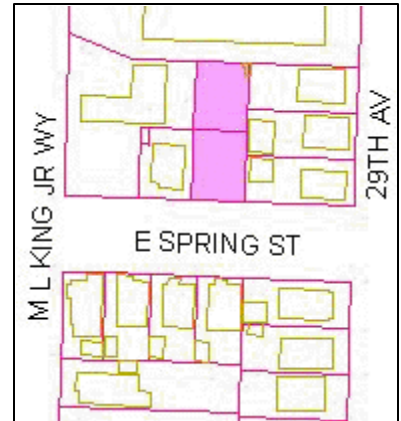
☒ DNS with conditions

☐ DNS involving non-exempt grading, or demolition  
or involving another agency with jurisdiction.

## **BACKGROUND**

### **Site Description**

The project site is located in the Central District neighborhood of Seattle half a block east of the intersection of E Spring Street and Martin Luther King Jr. Way (MLK). The site, along with the entire block is zoned Neighborhood Commercial 2 with a 40 foot height limit (NC2-40). Development on the block includes a multi-purpose convenience (grocery) store, an abandoned gas station/auto repair shop and several single family residences. Across the street from the subject block is a single family zone marked by residential uses.



The development site contains approximately 5,520 square feet of land and has roughly 46 feet of street frontage along E. Spring St. The topography of the lot slopes down from south to north with a total grade change of 7 feet from the sidewalk back to the rear lot line. The eastern property line abuts the rear yards of three separate single family homes. The northern property line lies alongside the side setback of the nearby grocery store. A single family home and the rear of the auto mechanic business line the western side of the property.

### **Public notice**

During the review of the project, the proposal was redesigned from a proposed mixed use structure containing an approximately 560 square foot ground floor commercial space with 9 residential uses located in a four floor structure to two single purpose residential structures with 5 dwelling units. As the new proposal required an Administrative Conditional Use permit to allow a single purpose residential structure in an NC2-40 zone under SMC 23.47.004, the project required a new notice under SMC 23.76. The initial notice period for the mixed use project ran November 28, 2002 to January 8, 2003. The second notice period generated due to the redesign of the project began on December 4, 2003 and ended December 31, 2003.

### **Public comment**

During the referenced public comment periods, numerous emails and letters were sent to the department. The emails and letters were sent to the department in response to the mixed use proposal. These comments were primarily against the proposal based on the perceived bulk and scale, traffic and other development related impacts. After the redesign of the project, no comment letters were sent to the department, however an extension was granted to extend the comment period following a written

request. Four public meetings were also held on the project in relation to the Design Review component of the project.

**ANALYSIS – ADMINISTRATIVE CONDITIONAL USE TO ALLOW A SINGLE PURPOSE RESIDENTIAL USE IN AN NC2/R-40 ZONE**

SMC 23.47.004E requires an Administrative Conditional Use Permit for single purpose residential structures in an NC2 zone. The criteria to evaluate these structures in SMC 23.47.006B4 are listed below, followed by analysis:

*In order to conserve the limited amount of commercially zoned land for commercial uses, single-purpose residential structures shall generally not be allowed in commercial zones. However, additions to, or on-site accessory structures for, existing single-family structures are permitted outright. Where single-purpose residential structures may be permitted as an administrative conditional use, such a permit may be granted only when the following circumstances exist:*

- a. Due to location or parcel size, the proposed site is not suited for commercial development; or*

The NC2-40 zone allows for these structures, subject to an Administrative Conditional Use Permit under SMC 23.47.004E. The proposed site is not located within an Urban Village. The 5,500 square foot development site is located across the street from a residential zone. The street is a nonarterial street that is residential in scale and character, based on surrounding uses and zones.

The block face where the proposal is located is approximately 500 feet from the intersection of Martin Luther King Jr Way and E Union Street, which is the predominate corner of the NC 2 zone where this site is located. The block to the south and east are zoned single family 5000. Between the development site and the referenced intersection, there are several undeveloped and underdeveloped parcels. One parcel immediately adjacent to the site is home to an abandoned gasoline station. The lots adjacent to the site in the NC zone are actually used for legally established single purpose residential structures. The size of many of these adjacent lots and the subject parcel are small, which would suggest that the costs of assembly and redevelopment would be difficult to develop a significant commercial structure.

- b. There is substantial excess supply of land available for commercial use near the proposed site, evidenced by such conditions as a lack of commercial activity in existing commercial structures for a sustained period, commercial structures in disrepair, and vacant or underused commercially zoned land; provided that single-purpose residential development shall not interrupt an established commercial street front. As used in this subsection, an "established commercial street front" may be intersected by streets or alleys, and some lots with no current commercial use.*

There has been no significant commercial activity in the immediate NC2 zone. One use, a multi-purpose convenience store, has been in continuous operation, however much of the remaining commercial parcels are vacant and underutilized. Further, the commercial activity that has been proposed in the larger area are approximately ½ mile away, which suggests that redevelopment in the immediate area will languish for some time and not be viable. As referenced above, there are significant residential structures in the immediate area of the site that shares the same zoning, which further suggests that this area is more of a residential zone in types of duration of uses than a viable commercial or even mixed-use zone.

### **DECISION – ADMINISTRATIVE CONDITIONAL USE**

The request for an Administrative Conditional Use Permit for a Single Purpose residential use in an NC2-40 zone is **APPROVED** with no conditions.

### **ANALYSIS - DESIGN REVIEW**

#### **BACKGROUND**

As originally conceived, the proposal included a mixed use building for the site. The proposal assumed a ground floor commercial space with 9 dwelling units located above, with parking to be located in a partially below grade parking garage. During the Early Design Guidance review and preliminary recommendation meetings before this Board on March 6, 2002, February 5, 2003 and October 1, 2003, significant concern was raised about the scope of the project and its impacts on surrounding properties. Concerns raised included the scale of the project in relation to adjacent single family residences and a single family zone, the amount of traffic from the project, the bulk and scale of the project and the potential for the commercial space. The Board had prioritized the following guidelines during their review of the original proposal:

- A-3 Entrances Visible from the Street
- A-5 Respect for Adjacent Sites
- A-7 Residential Open Space
- A-9 Location of Parking on Commercial Street Fronts
- B-1 Height, Bulk and Scale Compatibility
- C-1 Architectural Context
- C-3 Human Scale
- C-4 Exterior Finish Materials
- D-1 Pedestrian Open Spaces and Entrances
- D-7 Personal Safety and Security
- E-2 Landscaping to Enhance the Building and/or Site
- E-3 Landscape Design to Address Special Site Conditions

Based on these guidelines, and the public comment, the project was redesigned to respond to these concerns.

### **RECOMMENDATION MEETING – March 3, 2004**

As indicated, the applicants revised the project from a mixed use project to a single purpose residential development. Due to a redesign of the project, the applicants have changed the proposal to include a two structure, 5 unit townhouse development. The proposal will include a two unit, three story ground related dwelling unit fronting E Spring Street. A second structure, housing three ground related dwelling units, will be located approximately 22 feet to the north of the two unit structure. An automobile court will be located between the structures, with individual garages included in the structures for each dwelling unit. The features reviewed by the Design Review Board at this final meeting included:

- A two unit and a three unit structure separated by an at-grade parking court
- The entrance to the parking court located between the two structures
- Decking and fencing along E Spring St for the two unit structure
- View of facades showing change in materials, modulation of facades, trim, windows, etc.
- Material details including the use of a stone-covered base, hardi-board siding, shingles, bracketing and the use of color to accentuate change of materials and modulation of facades
- Landscaping and open space details

Due to the redesign of the project, no design departures are required for the project.

### **SUMMARY OF BOARD RECOMMENDATIONS**

The Board expressed their overall approval of the change of the project from its original inception to the project presented at this meeting. The Board complemented the architect on listening to the public comment and redesigning the project to compliment the surrounding neighborhood. The Board also expressed its appreciation to the neighborhood for being engaged in the project's development.

Therefore, after considering the proposed design and the project context, hearing public comment, and reconsidering the solutions presented in relation to the previously stated design priorities, the 4 Design Review Board members in attendance unanimously recommended **APPROVAL** of the subject design. No conditions were recommended.

### **Staff Analysis**

The Director is bound by any consensus approval of the design and requested design departures, except in certain cases, in accordance with Section 23.41.014.F.3. These exceptions are limited to inconsistent application of the guidelines, exceeding the Board's authority, conflicts with SEPA requirements, or conflicts with state or federal laws. The Director has reviewed the Citywide Design Guidelines and finds that the Board neither exceeded its authority nor applied the guidelines inconsistently in the approval of this design. The Director also concurs with the conclusions of the

Board that the project does meet the City-wide design guidelines due to the redesign of the project from its original mixed use proposal to that of a single purpose residential structure.

### **DECISION - DESIGN REVIEW**

The proposed design is **APPROVED** with conditions listed below.

### **ANALYSIS - SEPA**

#### **SEPA Determination**

The initial disclosure of the potential impacts of this project was made in the environmental checklist submitted by the applicant dated November 4, 2002 and annotated by the Department. The information in the checklist, project plans and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" (subject to some limitations). Under certain limitations or circumstances (SMC 25.05.665 D 1-7), mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

#### **Short-term Impacts**

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- construction dust and storm water runoff,
- erosion,
- increased traffic and demand for parking from construction equipment and personnel;
- increased noise levels,
- occasional disruption of adjacent vehicular and pedestrian traffic,
- decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment;
- increased noise; and
- consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts: The Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Street Use Ordinance requires debris to be removed from the street right-of-way, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

Any conditions to be enforced during construction shall be posted at each street abutting the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions shall be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of construction.

### Noise

In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby properties, all other construction activities shall be limited to non-holiday weekdays between 7:30 A.M. and 6:00 P.M. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby residences, only low noise impact work such as that listed below, shall be permitted on Saturdays from 9:00 A.M. to 6:00 P.M. and on Sundays from 10:00 A.M. to 5:00 P.M.:

1. Surveying and layout.
2. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. Such construction activities will have a minimal impact on adjacent uses. Restricting the ability to conduct these tasks would extend the construction schedule, thus the duration of associated noise impacts. DPD recognizes that there may be occasions when critical construction activities could be performed in the evenings and on weekends, which are of an emergency nature or related to issues of safety, or which could substantially shorten the total construction time frame if conducted during these hours.

Therefore, the hours may be extended and/or specific types of construction activities may be permitted on a case by case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels will be conducted by DPD Construction Inspections.



As conditioned, noise impacts to nearby uses are considered adequately mitigated.

### Construction Parking

Construction of the project is proposed to last for several months. Numerous concerns were raised by residents through the review process concerning the effect of construction related traffic impacts on East Spring Street and other streets. On street parking in the vicinity is limited, and the demand for parking by construction workers during construction could exacerbate the demand for on-street parking and result in an adverse impact on surrounding properties. The owner and/or responsible party shall assure that construction vehicles and equipment are parked on the subject site for the term of construction whenever possible. It is expected that all workers will be able to park on-site once the parking garage phase is completed and for the remaining duration of construction activity. To further facilitate this effort, the owner and/or responsible party shall submit a construction phase transportation plan. These conditions will be posted at the construction site for the duration of construction activity. The authority to impose this condition is found in Section 25.05.675B2g of the Seattle SEPA ordinance.

### Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces; increased bulk and scale on the site; increased traffic in the area and increased demand for parking; increased demand for public services and utilities; potential loss of plant and animal habitat; and increased light and glare.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding; the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts, however, due to the size and location of this proposal, potential impacts warrant further analysis.

Section 25.05.675 of the Municipal Code states that the following projects may be conditioned or denied to mitigate their adverse drainage impacts: projects located in environmental critical areas and areas tributary to them; projects located in areas where downstream drainage facilities are known to be inadequate; and projects draining into streams identified by the State Department of Fisheries as bearing anadromous fish. None of these applies to the subject property. All of the proposed drainage facilities must be designed in compliance with the current City of Seattle drainage codes. Therefore, no additional conditioning is warranted pursuant to SEPA policies.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

### **DESIGN REVIEW - CONDITIONS**

#### **Non-Appealable Conditions**

1. Any proposed changes to the exterior of the building or the site or must be submitted to DPD for review and approval by the Land Use Planner. Any proposed changes to the improvements in the public right-of-way must be submitted to DPD and SDOT for review and for final approval by SDOT.
2. Compliance with all images and text on the MUP drawings, design review meeting guidelines and approved design features and elements (including exterior materials, landscaping and ROW improvements) shall be verified by the DPD planner assigned to this project, or by the Design Review Manager. An appointment with the assigned Land Use Planner must be made at least (3) working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved.

### **STATE ENVIRONMENTAL POLICY ACT - CONDITIONS**

#### **Prior to Issuance of Master Use Permit**

None.

Prior to issuance of any Construction or Grading Permits

1. The owner(s) and/or responsible party(s) shall secure DPD Land Use Division approval of construction phase transportation and pedestrian circulation plans. Appropriate SDOT participation in development of the plans shall be documented prior to DPD Land Use Division approval. The plans shall address the following:
  - Ingress/egress of construction equipment and trucks
  - Truck access routes, to and from the site, for the excavation and construction phases.
  - Street and sidewalk closures, including locations of re-routing pedestrian movement

Construction Conditions

1. Parking for construction workers shall be provided on-site as soon as the garage is completed.
2. The hours of all work not conducted entirely within an enclosed structure (e.g. excavation, back-filling, pile-driving, framing) shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. Work after 6:00 p.m. or on weekends may be allowed if prior approval is obtained from the Land Use Planner at DPD. Such after hours work could include emergency construction necessitated by safety; street use concerns or work which would substantially shorten the overall construction timeframe. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby residences, only low noise impact work such as that listed below, shall be permitted on Saturdays from 9:00 A.M. to 6:00 P.M and on Sundays from 10:00 A.M. to 5:00 P.M.

Signature: \_\_\_\_\_ (signature on file) Date October 14, 2004

Michael Jenkins, Land Use Planner  
Department of Planning and Development  
Land Use Services

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